IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1145 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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GUJARAT PUSTAKALAYA SAHAYAK SAHAKARI MANDLI LTD.

Versus

DISTRICT REGISTRAR

Appearance:

1. Special Civil Application No. 1145 of 1992

MR BS PATEL for Petitioner No. 1

MRS RANJAN B PATEL for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1-2

MR JV DESAI for Respondent No. 3

MR SK JHAVERI for Respondent No. 3

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 01/08/2002

ORAL JUDGEMENT

1. The present petition is preferred by the petitioner for relief of quashing the registration ranted to respondent No.3 Society and the petitioner has also made the prayer to quash and set aside the order dated 22-4-1991 passed by the State Government in revision.

2. The perusal of the order shows that the State Government has found that the registration has been granted in the year 1973 and thereafter the society has functioned through out i.e. upto 1991, when the State Government considered the matter and, therefore, the State Government found that it is not proper to cancel the registration of the society which has continued for a period of about 17 years at the relevant point of time. When this petition comes up for hearing, ten more years' time has passed and, therefore, in all respondent No.3 society has functioned for a period of about 27 years. I am of the view that the action of cancellation of registration would adversely affect the large number of existing members of the society and when the society has functioned through out, the State Government was justified in not cancelling the registration granted and, therefore, it cannot be said that the State Government has committed any error in exercising revisional jurisdiction.

3. However, Mr.B.S.Patel, learned Counsel appearing for the petitioner, submitted that granting registration to this type of societies would mean that the State Government is not to follow its own order dated 20-7-1982, copy whereof is produced at page 32, Annexure "H". Mr. Patel contended that respondent No.3 society is covered by the said order in as much as Item No.5 of the said order provides that if a person is engaged in the business of purchase and sale of the item, he shall not be admitted as a member of the primary or central consumer cooperative societies. He submitted that the founder members of respondent No.3 society were holding this disqualification and, therefore, the State Government could not have granted registration.

4. On behalf of respondent No.3, Mr.S.K.Jhaveri, learned Counsel, has submitted that respondent No.3 society is neither primary level or central consumer cooperative society and he further submitted that the members of any business class can form a society with a view to protect their interests, which has been done in the present case. Mr.Jhaveri submitted that when the registration came to be granted there is no defiance to the order dated 20-7-1982 of the State Government since in his submission there is no question of

disqualification.

5. There is no material on record to show that respondent No.3 Society is a primary or central consumer cooperative society. In any event, if any member of respondent No.3 society has been admitted as a member in breach of the order dated 20-7-1982, then it will be for the authority to take steps in accordance with law. However, on such ground the registration which has been granted to respondent No.3 society and the society which has continued for a period of about 27 years cannot be cancelled.

6. In view of the above, I find no substance in this petition except with the qualification that if the State Government finds that any member has incurred disqualification on account of the order dated 20-7-1982, it will be open to the State Government to take action in accordance with law.

7. subject to the aforesaid observations, the petition is dismissed. Rule discharged.

1-8-2002 (Jayant Patel, J.)

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